PLEASE NOTE - AS OF JAN. 25, 1979 - TWENTY NINE
OCS SPECIAL APPLICATIONS HAVE BEEN
APPROVED - R 2040
OJM

January 18, 1979

Mr. William Torbert
61 S. Bradford Street
Dover, Delaware

Dear Mr. Torbert:

This is to advise you that the New Jersey State Board of Mortuary Science has learned, through an investigation by the Office of the Attorney General, that between December 8, and December 19, 1978 twenty-nine (29) bodies released from the Dover Air Force Base, Dover, Delaware were brought into the State of New Jersey by six licensed Delaware funeral directors, or their agents.

The investigation reveals that you were the funeral director of record involved in nine (9) of these cases, at Eglington Cemetery, Clarks boro, New Jersey.

N.J.S.A. 45:7-47 provides that "no person shall engage in the practice of mortuary science, embalming, or funeral directing, unless he shall have been duly licensed so to do by the board..." You are not licensed to practice in the State of New Jersey. In addition N.J.A.C. 13:36-8.10, a rule of the Board, provides that "No interment, cremation, or other disposition of a dead human body, shall be made in the State of New Jersey, unless a New Jersey licensed practitioner of mortuary science or funeral director is present at the time of disposition." As you are aware, no New Jersey licensees were present in the above mentioned cases. Accordingly, at its meeting on January 9, 1979 the Board moved unanimously, that you be censured for your violation of the law, and the rule.

Be advised that the penalty for unlicensed practice under N.J.S.A. 45:7-12 is $2,500 for the first offense, and not more than $5,000 for the second and each subsequent offense. Because of the unusual circumstances involved in this case, the Board moved to impose a lesser sanction, in the form of a censure. You can be assured that such will not be the case in the event of future violations.

DEPARTMENT OF STATE A/CDC/MR
REVIEWED BY _____ DATE _____
RDS ☐ or XDS ☐ EXT. DATE _____
REASON (3) _____
TS AUTH _____
ENDORSE EXISTING MARKINGS ☐
DECLASSIFIED ☐ RELEASABLE ☑
RELEASE DENIED ☐
PA or FOI EXEMPTIONS _____

Authority for any further cremations of the Jonestown bodies at the Air Force Base, will be granted only upon Special Application made to the New Jersey State Board of Mortuary Science for each body to be cremated in New Jersey (copy enclosed). These transactions may be handled by certified mail. Also, if the cremains are not to be returned to the next of kin for any reason, please notify this Board, in writing, prior to the cremation as to what other disposition will be made.

Very truly yours,

BOARD OF MORTUARY SCIENCE

Maurice W. McQuade,
Executive Secretary

mwm/lr

enc.

Department of Law and Public Safety — Inter-Communication

From: Charles T. Mysak, Deputy Attorney General
To: Douglas J. Harper, Deputy Attorney General
(Institution or Department)

Date: January 10, 1979

RE: DEPUTY ATTORNEY GENERAL MYSAK'S REMARKS BEFORE THE BOARD ON JANUARY 9, 1979, CONCERNING THE JONESTOWN CREMATIONS

Gentlemen:

On November 18, 1978 the residents of a settlement know as Jonestown, Guyana, were the victims of a mass murder-suicide. Because these victims were American Citizens, the United States Government, with the permission of the Guyanese government, transported the bodies of the victims to Dover Air Force Base, Dover, Delaware. According to Michael White, an Attorney Advisor to the United States Department of State, approximately half of the over 900 bodies at the base have been identified and claimed by their next of kin.

On December 8, 1978, in accordance with an opinion of t office of the Attorney General, State of Delaware, identified bod claimed by next of kin, were released to local Delaware funeral directors, who, again in accordance with the same Attorney Genera opinion, (a copy of which you have before you), were legally authorized only to transport the bodies through and out of the State of Delaware. Between December 8, 1978 and December 19, 197 twenty-nine (29) of these bodies were brought into the State of New Jersey by six licensed Delaware funeral directors for the pur pose of being cremated. These bodies, along with their accompany documentation, were presented to George Smith, the President of t Eglington Crematory, at 320 Kings Highway, Clarksbor New Jersey who performed the cremations, and returned the ashes to the funer directors involved, or the next of kin. None of the funeral dire tors involved were licensed to practice mortuary science in New Jersey. I have distributed to each of you copies of the documen- tation accompanying these bodies in every case. In addition, you have before you a list of the names of the persons cremated. The funeral directors involved are Robert R. Farries, William C. Tork William J. Warwick, Michael J. Ambruso, Donald Durham and Edward G. Minus, Sr.

N.J.S.A. 26:7-16 requires that any person who cremates dead human body without first having received a permit for burial other final disposition issued according to the laws or regulatic of this or any other state shall be guilty of a misdemeanor. It should be noted that the papers accompanying these bodies, constr only a permit to transit. Nevertheless, I advise you that it doe

not appear that a misdemeanor was committed in this case. This is because N.J.S.A. 26:6-28 clearly establishes that ". . . When a dead body is transported from outside this state into the state for burial or other final disposition, the transit or removal permit, issued in accordance with the law and health regulations of the place where the death occurred, shall be given the same force and effect as the local burial or removal permit." It is my understanding from Mr. Michael White that the Solicitor General of Guyana has submitted the following statement to the United States Department of Justice.

> As the Solicitor General of Guyana, I hereby confirm that the bodies of the victims of the Jonestown incident which occurred in Guyana in November, 1978, were lawfully removed from the jurisdiction of Guyana by the United States Air Force.

It is, thus, evident that these bodies were legally removed from Guyana, and legally removed from the State of Delaware.

N.J.S.A. 8A:5-19 provides that a cemetery company may "permit interment or cremation of any remains upon the receipt of a written authorization of a person representing himself and believed to be a person who has the right to control the disposition of said remains . . . ." All of the bodies presented for cremation in New Jersey were accompanied by telegrams or letters from the next of kin authorizing the Delaware funeral directors to take custody of the body and arrange for cremation, so that it would appear that the cemetery officials in this case complied with the above statute.

N.J.S.A. 45:7-47 provides that "no person shall engage in the practice of mortuary science, embalming, or funeral directing, unless he shall have been duly licensed so to do, by the board . . . ." N.J.A.C. 13:36-8.10, a rule of this Board, provides that "No interment, cremation or other disposition of a dead human body shall be made in the State of New Jersey unless a New Jersey licensed practitioner of mortuary science or funeral director is present at the time of disposition." It is clear that the statute and the rule were violated in the 29 instances of cremation at Eglington. The penalty for unlicensed practice under N.J.S.A. 45:1-12 is $2,500 for the first offense and not more than $5,000 for the second and each subsequent offense. Obviously, the penalties in this case could be very substantial.

On December 29, 1978, I met with three of the funeral directors involved in this case in Newark, and all indicated to me that they were deeply sorry for any inconvenience and certainly, at no time, did they intend to violate any statute or law of the State of New Jersey, and that, although they hoped to accomplish further cremations in the State, they would not do so until contacted by the New Jersey State Board of Mortuary Science. On the same day, I met with George Smith, the President of the Crematory, who indicated to me that no further cremations would take place except with the approval of the Office of the Attorney General. In addition he has provided me with all the documentation in his possession concerning these cremations. I have consulted with the Director of the Bureau of Vital Statistics in the Department of Health in Trenton, Mr. Charles Karkut, and with the deputy assigned as Counsel to the Department, Charlotte Kitler, and they agree that, with the exception of the licensing questions, New Jersey State laws appear to have been complied with. I have been in telephone contact with the other directors involved in this case, and they have agreed to await word from this Board before proceeding any further.

It should be noted that these cremations took place without incident. I have been assured by the State Department that the bodies in question have been properly treated chemically, and pose no health hazard. The bodies are enclosed in four body bags or pouches and sealed hermetically in steel caskets especially provided for this emergency. In addition, the Board is in receipt of the sworn statement of Charles Carson, the Mortuary Officer at the Dover Air Force Base, that these bodies, in their present state, pose no public health hazard. I believe the uniqueness of this situation calls for a flexible response.

N.J.S.A. 45:7-73.1 provides that the board may in its discretion, enter into an agreement with the licensing authority of any other State to permit a person duly licensed as a practitioner in either state to enter into the other state for the purpose of removing, transporting, or burying dead human bodies. New Jersey has entered into such reciprocal agreements with the States of New York and Pennsylvania. New Jersey offered in 1967 to enter into such an agreement with the State of Delaware but received no response from that State. Nevertheless, both Delaware and New Jersey funeral directors admit that they have, in fact, traveled interstate in this connection, and according to our records, this has been accomplished without incident. No action has ever been taken by New Jersey against Delaware licensee in this regard and vice versa. Nevertheless, the volume of traffi involved in this case (conceivably several hundred bodies) would seem to call for a more systematic approach to the problem.

The United States Department of State, through its Attorney Advisor Michael White, has apologized to the State of New Jersey for any inconvenience. In the normal course of events, I do not, as a rule, in my role as counsel make recommendations in disciplinary matters. These are admittedly unusual, special circumstances. I have had as I indicated, direct contact with nearly all the directors involved, and they impressed me with their candor and humility.

I think it is doubtful that we will ever know the full dimensions of the tragedy of Jonestown. We know by the very nature of this board's business, the corporal dimensions of the tragedy. It seems to me that service to families in times of very great sorrow, is the hallmark of the funeral profession.

Certainly, as regards the Jonestown deceased and their families, these are very hard times indeed. And in their own way, these Delaware directors did their best to relieve their sorrow. No demonstrable public harm resulted, and none was intended. Because these directors intended, and did no harm, I would hope you would show them some consideration.

I think it can be said that this was a uniquely un-American tragedy, and I think it can also be said that our government has responded to it in a uniquely American way - with competence and compassion. I trust the Board will act in a similar spirit. (At this point motion was made by James Hunt, seconded by William Dangler that letters of censure be sent to these directors. Motion was carried unanimously). (At this point the Board discussed the procedure to be set up for special application re: future cremations).

C. J. M.

CJM:jmc